



CALIFORNIA STATE PERSONNEL BOARD

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ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Location

Doubletree Golf Resort and Hotel
14455 Penasquitos Drive
San Diego, CA 92129

Closed Session Location

Doubletree Golf Resort and Hotel
14455 Penasquitos Drive
San Diego, CA 92129

SUMMARY MINUTES – November 5, 2007

¹ Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

FULL MONTH BOARD MEETING MINUTES²

1. ROLL CALL

Members Present:

Sean Harrigan, President
Anne Sheehan, Vice President
Maeley Tom, Member
Richard Costigan, Member

2. REPORT OF THE EXECUTIVE OFFICER – Suzanne M. Ambrose

- Kaye Abbey joins us from CalSTRS as our new Administrative Assistant II in the Executive Office.
- Portia Jacobson will be joining us at the end of the month as our new Secretariat.
- SSA Exam
 - 10,200 candidates have passed the exam
 - 1,687 candidates have failed the exam
 - 9 people are in Ranks 1, 2 and 3 (due to Veteran's Preference points)
 - 1500 people are in Rank 4, 1318 people are in Rank 5 and 1365 in Rank 6
 - 147 people have been hired off of the SSA list
 - 5 people have been added to the top of the list as SROA candidates from the Board of Chiropractors.
- SPB's new website went live on November 1, 2007.

3. REPORT OF THE CHIEF COUNSEL – Elise Rose

- The Attorney General has filed an amicus brief in CASE v. State of California, asserting that low attorney wages are negatively impacting the Department's ability to hire qualified attorneys which, in turn, is negatively impacting merit principles of employment in the state service.
- The Board received a California Public Records Act request from Ken Mandler of Capitol Weekly.

4. NEW BUSINESS

NONE PRESENTED

² The Agenda for the Board Meetings can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

5. REPORT ON LEGISLATION – Sherry Evans

NONE PRESENTED

6. ORAL ARGUMENT

In the matter of **CASE NO. 05-2721A**. Appeal from dismissal. Health Facilities Evaluator Nurse. Department of Health Care Services.

Donald Aaron, Senior Counsel. Department of Health Care Services, representing the department.

Rocio Y. Garcia, Staff Counsel. SEIU Local 1000, representing appellant.

ACTION: SUBMITTED

7. HEARING – STATE PERSONNEL BOARD AND DEPARTMENT OF PARKS AND RECREATION

The Board and the Department of Parks and Recreation discussed the establishment of a new class, Lifeguard (Permanent Intermittent), with a six month probationary period and designation of the class as sensitive under State Personnel Board Rule 213 for the purpose of pre-employment drug testing.

Tony Perez, Chief, Southern Division. Department of Parks & Recreation

Olivia Suber, Personnel Officer. Department of Parks & Recreation

Kevin Pearsall, Lifeguard, State Park Peace Officer. Department of Parks & Recreation

Ryan Gates, Lifeguard, State Park Peace Officer. Department of Parks & Recreation

ACTION: APPROVED WITH MODIFICATIONS

CLOSED SESSION OF THE STATE PERSONNEL BOARD

8. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

9. HEARING – STATE PERSONNEL BOARD AND DEPARTMENT OF CORRECTIONS AND REHABILITATION

The Board and CDCR staff discussed a proposed change to the probationary period for the Registered Nurse, Correctional Facility class from six to twelve months.

Nancy Lyerla, Registered Nurse and Bargaining Unit 17 Chair. California Department of Corrections & Rehabilitation, SEIU Local 1000

Daisy McKenzie, Staff Services Manager III. California Department of Corrections & Rehabilitation, Plata Support Division.

ACTION: SUBMITTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

10. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

11. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (c) (3), and 18653.]

12. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

Patrick McCollum v. State of California

United States District Court, Northern District of California
Case No. C 04-03339 CRB

Plata, et al. v. Schwarzenegger, et al.

Case No. C01-1351 THE

Colocousis, et al. v. State Personnel Board, et al.
Sacramento Superior Court Case No. 07CS00461

13. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

NO ACTION

14. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

NO ACTION

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

**15. DISCUSSION OF UPCOMING BOARD MEETING SCHEDULE OF
NOVEMBER 20, 2007, IN SACRAMENTO, CALIFORNIA**

NONE

BOARD ACTIONS:

**16. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF
OCTOBER 9, 2007**

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Costigan - Aye

**17. ADOPTION OF THE PROPOSED STATE PERSONNEL BOARD 2008 MEETING
SCHEDULE**

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Costigan - Aye

18. EVIDENTIARY CASES

ACTION: See Minutes on Pages 11-19

19. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Minutes on Pages 26-27)

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Costigan - Aye

20. NON-EVIDENTIARY CASES

ACTION: See Minutes on Pages 19-23

21. NON-HEARING CALENDAR

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

On November 5, 2007, the following proposals were presented to the Board by Elise Rose, Chief Counsel, California State Personnel Board.

ACTION: ADOPTED

VOTE: Harrigan, Sheehan, Tom, Costigan - Aye

A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.

DEPARTMENT OF FORESTRY AND FIRE PROTECTION (CAL FIRE)

The California Department of Forestry and Fire Protection (CAL FIRE) is proposing to revise the Chief series specification. The revision includes changes to the minimum qualifications (MQs) of the Assistant Chief (Supervisory) classification; updates to the tasks, knowledge, skills, abilities, and terminology of the series based on a recently completed job analysis; addition of a driver's license requirement to the MQs for all classes within the Chief series; and abolishment of the Deputy Chief classification, as the department no longer uses this classification.

B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes. When classes are proposed to be abolished which are part of a class series, and other classes within the series will continue to be used, the class specification is included in the board item.

NONE

22. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

23. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

DEPUTY DISTRICT DIRECTOR, ENVIRONMENTAL PLANNING, DEPARTMENT OF TRANSPORTATION

The Department of Transportation proposes to allocate the above position to the CEA category. The Deputy District Director develops and implements policies for the planning and directing of five areas, develops short term and long term policies and strategic plan relative to all facets of environmental planning at the state highway system within the District; the position also establishes Division Program Level Action Plans that include the Department's goals, strategies, and performance measures.

CHIEF, CLINICAL OPERATIONS DIVISION, DEPARTMENT OF CORRECTIONS AND REHABILITATION

The Department of Corrections and Rehabilitation proposes to allocate the above position to the CEA category. The Chief, Clinical Operations Division has full responsibility and accountability for the overall planning, policy formulation, organization, direction and administration of the quality improvement program, education, and medical management for clinical operations for CDCR medical units and the Office of the Receiver programs on a statewide basis.

CHIEF, PLANNING & PROJECT MANAGEMENT BRANCH, IT SERVICES DIVISION, DEPARTMENT OF PUBLIC HEALTH

The Department of Public Health proposes to allocate the above position to the CEA category. The Chief is responsible for developing policies to minimize project risk; ensuring that all aspects of IT planning, oversight, and project management support the needs of the departmental programs while adhering to the state's rules and policies that help minimize risk. Additionally, the Chief supports the activities of the Executive Steering Committee, coordinating department-wide IT planning efforts, leading the annual IT planning process, providing oversight of IT acquisitions and control agency documents.

CHIEF, OFFICE OF PUBLIC AFFAIRS (OPA), DEPT OF FOOD AND AGRICULTURE

The Department of Food and Agriculture proposes to transition the existing Exempt position of Director, Public Affairs to Chief, Office of Public Affairs within the CEA category. The Chief is the principle spokesperson for the Agency and State Board; is responsible for promoting public awareness and understanding to the Agency's programs and California agriculture among the Legislature, special interest groups, local government agencies, and the general public. The Chief manages and directs the OPA; is responsible for the development of a comprehensive public affairs program and attendant policies and practices; in addition to reviewing major program and policy changes and developments for the public/media implications.

CHIEF, BUSINESS OPERATIONS, 21ST CENTURY PROJECT, STATE CONTROLLER'S OFFICE

The State Controller's Office proposes to allocate the above position to the CEA category. This position will be responsible for business relations with key stakeholders, business partners, and system integrators to ensure product and services are provided timely and in accordance with contractual obligations. This position will also ensure that the services provided meet standards of quality, costs, and usability in an effort to assist the SCO in meeting its constitutional/statutory obligation for human resources/payroll services.

SPECIAL ASSISTANT TO THE INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL

The Office of the Inspector General proposes to allocate the above position to the CEA category. This position will serve as a high-level resource to provide the Inspector General objective, independent advice and recommendations on significant policy issues and activities related to AB 900, the Public Safety and Offender Rehabilitation Services Act of 2007.

DEPUTY DIRECTOR FOR PROGRAM PERFORMANCE AND COMMUNICATIONS, CALFED BAY-DELTA PROGRAM

The Resource's Agency, CALFED Bay-Delta Program proposes to allocate the above position to the CEA category. This position will be responsible for developing, negotiating, and implementing policy related to program performance, multi-agency finance structures, and the public information and public affairs programs for the CALFED Bay-Delta Program.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

DEPUTY DIRECTOR, DESIGN SERVICES BRANCH

The Department of Corrections and Rehabilitation's request to allocate the above position has been approved effective October 12, 2007.

DEPUTY DIRECTOR, FACILITY PLANNING BRANCH

The Department of Corrections and Rehabilitation's request to allocate the above position has been approved effective October 12, 2007.

DEPUTY DIRECTOR, ACQUISITIONS BRANCH

The Department of Corrections and Rehabilitation's request to allocate the above position has been approved effective October 12, 2007.

DEPUTY DIRECTOR, ASSET MANAGEMENT BRANCH

The Department of Corrections and Rehabilitation's request to allocate the above position has been approved effective October 12, 2007.

COMMUNICATIONS DIRECTOR

The Department of Personnel Administration's request to allocate the above position has been approved effective October 15, 2007.

ACTION: NOTED

24. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

25. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE PRESENTED

26. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE PRESENTED

27. BOARD ACTIONS ON SUBMITTED ITEMS

ACTION: See Minutes on Pages 24-25

A D J O U R N M E N T

**WHAT FOLLOWS IS A RECORD OF ACTIONS TAKEN ON AGENDA ITEMS 18 - 20
AS NOTED**

18. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

(1) CASE NO. 05-1007EA

Appeal from denial of discrimination complaint

Classification: Outside contractor

Department: Department of Transportation

Proposed decision rejected December 19, 2006.

Pending oral argument April 3, 2007, Sacramento.

Oral argument continued.

Oral argument heard July 10, 2007, Sacramento.

Case ready for decision by FULL Board.

NO ACTION

(2) CASE NO. 05-1285A

Appeal from dismissal

Classification: Public Safety Dispatcher II

Department: Department of California Highway Patrol

Proposed decision rejected January 9, 2007.

Transcript prepared.

Pending oral argument June 5, 2007, Sacramento.

Oral argument continued.

Oral argument heard September 4, 2007, Sacramento.

Case ready for decision by FULL Board.

ACTION: The Board issued a non-precedential decision adopting the Proposed Decision, but modifying the penalty to a suspension for ten working days.

(3) CASE NO. 06-2010A

Appeal from medical termination

Classification: Administrative Support Coordinator II

Department: California State University, Los Angeles

Proposed decision rejected May 8, 2007.

Transcript prepared.

Oral argument heard August 7, 2007, Pasadena.

Case ready for decision by FULL Board.

NO ACTION

(4) CASE NO. 07-1381A

Appeal from dismissal

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

Proposed decision rejected June 5, 2007.

Transcript prepared.

Oral argument heard October 9, 2007, Sacramento.

Case ready for decision by FULL Board.

ACTION: The Board issued a non-precedential decision revoking appellant's dismissal.

(5) CASE NO. 06-4585E

Appeal from denial of reasonable accommodation

Classification: Staff Services Manager II

Department: Commission on Teacher Credentialing

Case taken under submission on October 9, 2007.

ACTION: The Board rejected the Proposed Decision and remanded the case to an ALJ.

(6) CASE NO. 05-1043P

Appeal from dismissal

Classification: Tax Counsel, Range D

Department: Board of Equalization

Petition for rehearing granted June 5, 2007.

Transcript prepared.

Oral argument heard October 9, 2007, Sacramento.

Case ready for decision by FULL Board.

NO ACTION

(7) CASE NO. 07-1969

Appeal from five day suspension

Classification: Officer

Department: Department of California Highway Patrol

Case taken under submission on October 22, 2007.

ACTION: The Board rejected the Arbitrator's decision.

(8) CASE NO. 07-003 (b)

Appeal from Executive Officer's disapproval of contract

Classification: Janitorial Services

Department:

Petition for rehearing granted May 8, 2007.

Oral argument heard September 4, 2007, Sacramento.

Case ready for decision by FULL Board.

NO ACTION

B. CASES PENDING

ORAL ARGUMENTS

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

(1) CASE NO. 05-2721A

Appeal from dismissal

Classification: Health Facilities Evaluator Nurse

Department: Department of Health Services

ACTION: SUBMITTED

C. CHIEF COUNSEL RESOLUTIONS

(1) Request by Tehama County for Board approval of alternate discipline review system under Government Code § 19802.5.

ACTION: ADOPTED

(2) Delegation of Authority to Executive Officer to approve back-dated appointments.

ACTION: ADOPTED

COURT REMANDS

NONE

STIPULATIONS

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These ALJ proposed decisions were submitted to the Board for the first time.

- (1) CASE NO. 06-1387**
Appeal from dismissal
Classification: Physician and Surgeon (Correctional Facility)
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal
- (2) CASE NO. 05-4172**
Appeal from dismissal
Classification: Youth Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: Remanded to an ALJ
- (3) CASE NO. 06-423**
Appeal from medical transfer and constructive medical transfer
Classification: Fraud Investigator
Department: Department of Health Services
ACTION: The Board adopted the ALJ's Proposed Decision denying the appeal.
- (4) CASE NO. 07-0946**
Appeal from 10 percent reduction in salary for 12 months
Classification: Custodian
Department: Department of General Services
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.

- (5) **CASE NO. 05-3496B**
Appeal from five percent reduction in salary for 3 pay periods
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision ordering the department to pay appellant interest at the rate of seven percent per annum.
- (6) **CASE NO. 06-0828**
Appeal from 30 work day's suspension
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision modifying the suspension.
- (7) **CASE NO. 06-3503**
Appeal from ten percent reduction in salary for four pay periods
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.
- (8) **CASE NO. 07-1673**
Appeal from five percent reduction in salary for 12 pay periods
Classification: Correctional Lieutenant
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the salary reduction, except for that portion of the Proposed Decision that found that appellant's conduct constituted legal cause for discipline under Government Code section 19572, subdivision (r).
- (9) **CASE NO. 06-3984**
Appeal from six working days suspension
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.
- (10) **CASE NO. 06-3258**
Appeal from 30 work day's suspension
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision granting the motion to dismiss.

- (11) **CASE NO. 07-0100**
Appeal from five percent reduction in salary for six months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision revoking the reduction in salary.
- (12) **CASE NO. 06-3373**
Appeal from non-punitive termination
Classification: Psychologist (Health-Facility-Clinical)
Department: Department of Developmental Services
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the non-punitive termination.
- (13) **CASE NO. 07-0375**
Appeal from 10 percent reduction in salary for 24 months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.
- (14) **CASE NO. 06-3249**
Appeal from 60 calendar day's suspension
Classification: Program Technician II
Department: Department of Health Services
ACTION: The Board adopted the ALJ's proposed decision sustaining the suspension.

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

- (1) **CASE NO. 06-4585E**

Appeal from denial of reasonable accommodation
Classification: Staff Services Manager II
Department: Commission on Teacher Credentialing

Case taken under submission on October 9, 2007.
ACTION: The Board rejected the Proposed Decision and remanded the case to an ALJ.
- (2) **CASE NO. 07-1969**

Appeal from five day suspension
Classification: Officer
Department: Department of California Highway Patrol
Case taken under submission on October 22, 2007.
ACTION: The Board rejected the Arbitrator's decision.

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

(1) CASE NO. 06-4075P

Appeal from dismissal

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

ACTION: DENIED

WHISTLEBLOWER NOTICE OF FINDINGS

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

On November 5, 2007 the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Costigan - Aye

(1) CASE NO. 06-3534A

Appeal from constructive medical termination

Classification: Psychiatric Technician Assistant

Department: Department of Developmental Services

Proposed decision rejected June 19, 2007.

Transcript prepared.

Pending oral argument December 4, 2007, San Francisco.

NO ACTION

(2) CASE NO. 06-3014PA

Appeal from punitive transfer

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

Petition for rehearing granted July 10, 2007.

Transcript prepared.

Pending oral argument October 9, 2007, Sacramento.

Oral argument continued.

Pending oral argument December 4, 2007, San Francisco

NO ACTION

(3) CASE NO. 07-0850A

Appeal from non-punitive termination

Classification: Clinical Social Worker

Department: Department of Corrections and Rehabilitation

Proposed decision rejected September 24, 2007.

Pending transcript.

NO ACTION

(4) CASE NO. 05-2721A

Appeal from dismissal

Classification: Health Facilities Evaluator Nurse

Department: Department of Health Services

Proposed decision rejected June 5, 2007.

Transcript prepared.

Pending oral argument November 5, 2007, San Diego.

ACTION: SUBMITTED

- (5) **CASE NO. 05-3327A**
Appeal from dismissal
Classification: Medical Technical Assistant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected July 10, 2007.
Pending transcript.

NO ACTION

- (6) **CASE NO. 06-1413PA**
Appeal from five percent reduction in salary for six months
Classification: Registered Nurse
Department: Department of Corrections and Rehabilitation

Petition for rehearing granted August 7, 2007.
Transcript prepared.
Pending oral argument December 4, 2007, San Francisco.

NO ACTION

20. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On November 5, 2007 the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Sheehan, Tom, Costigan - Aye

- (1) **CASE NO. 06-2839N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; gang affiliation.
ACTION: GRANTED
- (2) **CASE NO. 06-3093N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; provided inaccurate employment information and a negative employment and driving record.
ACTION: DENIED
- (3) **CASE NO. 06-2254N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; termination from employment within one year of applying to the CDCR.
ACTION: DENIED
- (4) **CASE NO. 06-2602N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; termination from employment within one year of applying to the CDCR.
ACTION: DENIED
- (5) **CASE NO. 06-2410N**
Classification: Correctional Supervising Cook, Correctional Facility
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; does not meet the minimum qualifications for the CSC exam.
ACTION: DENIED
- (6) **CASE NO. 06-3005N**
Classification: Cadet, CHP
Department: California Highway Patrol
Issue: Suitability; drug usage and negative employment record.
ACTION: DENIED
- (7) **CASE NO. 06-3125N**
Classification: Cadet, CHP
Department: California Highway Patrol
Issue: Suitability; negative employment history and a negative driving record.
ACTION: DENIED

- (8) **CASE NO. 06-3121N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; termination from employment within one year of applying to the CDCR.
ACTION: DENIED
- (9) **CASE NO. 06-3134N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; negative employment, failure to comply with legal obligations, and omitted pertinent information.
ACTION: DENIED
- (10) **CASE NO. 06-2187N**
Classification: Office Technician (Typing)
Department: California State Personnel Board
Issue: Suitability; does not meet the minimum qualifications for the OT(T) exam.
ACTION: DENIED
- (11) **CASE NO. 06-3090N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; omitted pertinent information, a negative driving record and negative school contacts.
ACTION: DENIED
- (12) **CASE NO. 06-3091N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; negative law enforcement contacts.
ACTION: DENIED
- (13) **CASE NO. 06-2113N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; misdemeanor conviction within one year of application.
ACTION: DENIED
- (14) **CASE NO. 06-3103N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; illegal drug use.
ACTION: DENIED

(15) CASE NO. 06-3128N

Classification: Correctional Officer

Department: California Department of Corrections and Rehabilitation

Issue: Suitability; negative law enforcement contacts and negative driving record.

ACTION: DENIED

(16) CASE NO. 06-1084N

Classification: Correctional Officer

Department: California Department of Corrections & Rehabilitation

Issue: Suitability; illegal drug use

ACTION: GRANTED

- **CASE NO. 07-0244N**

Classification: Correctional Officer

Department: California Department of Corrections & Rehabilitation

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

NONE

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

NONE

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

NONE

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. **TEACHER STATE HOSPITAL (SEVERELY), ETC.**
Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)
2. **VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES)**
Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)
3. **TELEVISION SPECIALIST (SAFETY)**
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)
4. **HEARING – Personal Services Contract #04-03**
Appeal of the California State Employees Association from the Executive Officer's
April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)
5. **HEARING**
Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)
6. **HEARING – PROPOSED AMENDMENTS TO REGULATIONS CONCERNING PROCEDURES THAT APPLY TO COST SAVINGS PERSONAL SERVICES CONTRACTS UNDER GOVERNMENT CODE SECTION 19130(a)** (Hearing held July 10, 2007.)
7. **CASE NO. 05-4007EA**
Appeal from denial of discrimination complaint. Outside contractor. Department of Transportation. (Oral argument held July 10, 2007.)

8. **CASE NO. 06-2010A.** Appeal from medical termination. Administrative Support Coordinator II. California State University, Los Angeles. (Oral argument held August 7, 2007.)
9. **PERSONAL SERVICES CONTRACT NO. 07-02, CASE NO. 07-003(b)** Appeal in the matter of the Executive Officer's disapproval of the Janitorial Services contract. Department of Health Services. (Oral argument held September 4, 2007.)
10. **CASE NO. 07-1381A** Appeal from dismissal. Correctional Sergeant. Department of Corrections and Rehabilitation
11. **CASE NO. 05-2721A.** Appeal from dismissal. Health Facilities Evaluator Nurse. Department of Health Services. (Oral argument held November 5, 2007.)
12. **HEARING – STATE PERSONNEL BOARD AND DEPARTMENT OF PARKS AND RECREATION.**
Proposed establishment of a new class, Lifeguard (Permanent Intermittent), with a six month probationary period and designation of the class as sensitive under State Personnel Board Rule 213 for the purpose of pre-employment drug testing. (Hearing held November 5, 2007.)
13. **HEARING – STATE PERSONNEL BOARD AND DEPARTMENT OF CORRECTIONS AND REHABILITATION**
Proposed change to the probationary period for the Registered Nurse, Correctional Facility class from six to twelve months. (Hearing held November 5, 2007.)

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

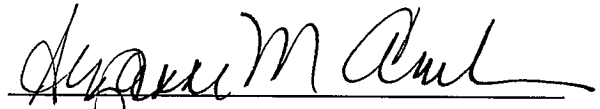
WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting held on December 4, 2007.

VOTE: Harrigan, Sheehan, Tom, Costigan – Aye

A handwritten signature in black ink, appearing to read "Suzanne M. Ambrose", written over a horizontal line.

Suzanne M. Ambrose
Executive Officer
California State Personnel Board